

**MINUTES
BUILDING BOARD OF APPEALS
November 16, 2017 2:00 p.m.
City Commission Chambers**

CALL TO ORDER

Chair Emig called the meeting to order at 2:00 p.m.

ROLL CALL OF BOARD MEMBERS

Members Present: Richard Emig, Chair, Charles Kiplinger, Vice Chair, Gary Wark, Linda Servis, Lyndia Bruckbauer, David Hyde

Members Absent: Emily Parfet

City Staff: Robert McNutt, Building Official; Karleen Steppenwolf, Recording Secretary; Rachael Luscomb, Code Compliance Inspector; Marvella Vincent, Code Compliance Inspector, Marcia Jones, City Attorney

NEW BUSINESS

826 Lake St will be heard first.

3719 Duke St will be removed from agenda for a month. This is a fire damaged house that was recently purchased. Mr. McNutt has received copy of purchase agreement. The new owners have other properties and Mr. McNutt believes they have the means to make the repairs.

APPROVAL OF PREVIOUS MINUTES

Mr. Emig, seconded by Mr. Wark moved to approve the minutes of September 21, 2017 as submitted, approved by voice call vote.

APPROVAL OF AGENDA

Mr. Emig, seconded by Ms. Servis moved to approve the agenda as submitted.

Motion approved by roll call unanimously.

INITIAL HEARINGS

The following property was presented to the board for a public hearing:

826 Lake St

This building is located in a RM-15 in the Edison neighborhood. The 39.2'x90' (0.081 acre) property contains 1,536 sq. ft. 2 story residential building built in 1910. Nearby uses are residential dwellings and commercial. There are no historic considerations for this property.

Mr. McNutt stated this house has been sitting in this condition for several years now. There have been broken windows and several meetings with the Tustin's to get this cleaned up. This was one of several properties brought to him by his staff requesting this property be brought before the board. The City is asking that the board find this property as a dangerous and blighted building. The City is asking that the required permits are pulled to remove the blight or let the City remove the blight and raze the house. There are broken/open windows and siding is deteriorated and the porch roof was taken off, but never repaired. There was a timeline given to the City in 2015 that they would take care of the property in 2015. That has failed to happen. There have been numerous notices sent out. This property sits down the road from a school and across the street from a church. The city feels there is no reason that this property should sit for this long in this condition with this many notices sent out trying to get the owners to take responsibility for the property.

Brian Wise, Attorney, spoke on behalf for Mr. Tustin. Mr. Wise stated that the Notice of Determination & Hearing was not done according to procedure. The notice not only describes the conditions of the building, but should include necessary repairs and a deadline for the repairs. Mr. Wise states that none of that information was provided. Mr. Wise thinks there were procedural deficiencies according to the document. Mr. McNutt responded that he has spoken with the City Attorney's office on the correct procedure to bring a property before the board. By bringing the property to the board it gives the property owners an opportunity to work with the board to resolve the issue per city ordinance.

Ms. Bruckbauer asked Mr. Wise if he thought it was okay for a property to site like this since 2015. Mr. Wise agreed it was not okay, but the City (Mr. McNutt) is not following the correct procedures. Mr. Wise stated again that the correct procedure was not followed in this case. Mr. Wise stated that he contacted Mr. McNutt prior to the hearing to try and resolve the issue. Mr. Wise stated that Mr. McNutt said his clients (Mike and Roxann Tustin) are liars and that we are taking this before the board because the Tustin's don't do what they say they are going to do. The Tustin's own several homes in the City and rehab them and rent them out. Mr. Wise stated that the Tustin's have been singled out.

Mr. Wark stated that it appeared they were singling out Mr. McNutt and trying to find a loophole to avoid repairing this house. Mr. Wise wanted to hand out pictures of other homes the Tustin's have rehabbed. Ms. Bruckbauer stated that she did not want to see the pictures because we are only talking about 826 Lake St. Ms. Bruckbauer wants to know why it's taking so long to get this property rehabbed.

Mr. Wise stated that this property was condemned when the Tustin's purchased it and they have taken down the garage and put a roof on the house and have removed the damaged siding and boarded broken windows. Mr. Wise stated they have every intention on repairing the house and

it is on a list of properties to complete. Mr. Wise doesn't feel this property is a dangerous or blighted property and is unoccupied.

Mr. Emig stated that we are only discussing 826 Lake St and the timelines for this property. Mr. Emig stated that he had visited the property two days ago and there are broken windows on the upper level. Mr. Emig asked Mr. Wise if he agreed that all windows that are broken are to be boarded. Mr. Wise agreed. Mr. Wise stated that the only issues with the house are the upper level windows not boarded; otherwise this is not a blight property.

Mr. Hyde asked Mr. Wise how many times the house has been cited for being open to casual entry. Mr. Wise stated it wasn't open to casual entry. Mr. Wark stated the issue of kids getting in the house. Mr. Wark stated that when a letter goes out, the City would like a response from the home owner and when there is no response we end up at the Building Board of Appeals.

Mr. Tustin asked Mr. Emig if he observed that a house down the street has been sitting for 8 or 9 months with boarded windows. Mr. Emig stated he did see those properties and the City have started enforcement action on them. Mr. Tustin feels the City needs to be more consistent. Mr. Wise does not believe this house is on the worse end of the spectrum, but more in the middle. Mr. Wise stated there are far worse homes than this and are occupied and clearly are not habitable, therefore the Tustin's are being singled out or there is a perception they are being singled out.

Mr. Wark stated that owner occupied homes and rentals or vacant properties are two different things.

Ms. Bruckbauer restated the dates when letters were sent to the Tustin's and asked if they had received the letters. Mr. Wise once again stated that the notices were not done properly. Mr. Wise stated that the Mrs. Tustin has a meeting with Rachael Luscomb, Code Compliance Inspector and Marvella Vincent, Code Compliance Inspector to discuss timelines for several houses. Mrs. Tustin stated she mailed by USPS the letter with the timelines to the inspectors, but the letter was never received by the inspectors. Ms. Bruckbauer wanted to know why this house was not a priority to them. Mr. Wise stated that they have several homes on a priority list and they have been working on those homes.

Mr. McNutt asked a question on how many homes have the Tustin's purchased since agreeing to rehab this home in 2015. This was supposed to be their number one home, but purchased more houses after 2015 and still did not repair the house at 826 Lake St. Mr. McNutt stated that the Tustin's have good and bad properties, but have continued to let this one sit. Mr. McNutt stated that it is in violation of the housing code and is a visual blight to the neighborhood.

Mr. Wark asked Mr. Tustin what are you looking for and when will this blight be repaired. Mr. Wark would like some dates instead of rehashing this.

Mrs. Tustin stated she met with Rachael and Marvella regarding timelines on May 9, 2017. Ms. Tustin asked which house they wanted them to start with and Rachael said 826 Lake St because it's the oldest. Mrs. Tustin stated she mailed the timelines to both Rachael and Marvella and

never heard back from them. Neither Rachael nor Marvella have seen the list of timelines for the properties discussed at the meeting.

Mr. Emig is asking for a timeline. Mrs. Tustin stated they would start on January 6, 2018 if not sooner. Mrs. Tustin stated their timeline to complete repairs should take 6 months (June 6, 2018). Mr. Wise wanted to state that 6 months is July 6, 2018. Mr. McNutt said let's be realistic and say July.

Mr. Emig stated he wanted a clear deadline for completion. Mr. Emig wanted to duly note Mr. Wise's objection to the perception of the procedures. Mr. Wise restated that he had talked to Mr. McNutt to come to an agreement on the timeline for the repairs and Mr. Wise once again said that Mr. McNutt called his clients liars, which Mr. McNutt objected to as hear say. Mr. McNutt stated that his staff did not receive the letter and if they had he would have heard from them sooner and if they would have received the letter they would not have sent out more letters.

Mr. Wise also wanted to attest to the fees for a title search and hearing referral. Mr. McNutt stated that we do a title search because there may be more than one person with an ownership interest in the property. Mr. McNutt stated that it's not a requirement to bring the property to the board, Mr. McNutt could have the City Attorney's issue a ticket every week that the property is in violation of the City ordinance and with that the Tustin's could have a misdemeanor on their record.

Mr. McNutt reiterated that it's the board's decision if the property is a blighted property or not and the Tustin's and their attorney have a right to take an appeal to circuit court.

Mr. Tustin stated that the city does not do a good job communicating.

Ms. Vincent stated that she did have a meeting on May 9, 2017 with Rachael and Mrs. Tustin on timelines for various properties and was to put that in writing by the end of the week. Again neither Marvella nor Rachael received the letter. Ms. Vincent sent them two different letters to let them know the timelines were not received. Again, Ms. Vincent let Mrs. Tustin know about a month ago that the timeline was never received. Ms. Luscomb agreed with Ms. Vincent. Mrs. Tustin stated that Mr. McNutt had the letter, but didn't share it with his inspectors. There were no violations being sent at that time. Mr. McNutt stated when he received the timeline (packet from attorney) we were in the process of going to this board.

Structural and exterior repairs for the building are estimated to cost approximately \$32,000. Estimated costs for demolition are approximately \$12,500. The 2017 SEV is \$10,000. According to Assessor records, the Estimated True Cash value of the land alone is approximately \$11,836 and that of the entire property \$19,763.

There were no comments from the public.
Chair Emig closed the public hearing.

FINDING OF FACT**Mr. Hyde moved the Finding of Fact as follows:**

1. The Finding of Fact for 826 Lake St shall include all information included in the notice of public hearing dated October 30, 2017 and the summary information.

Mr. Wark seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Ms. Servis moved to approve the application, to accept the Staff Recommendations as stated, Mr. & Mrs. Tustin have been approved to start repairs on 1/6/2018 and the repairs will be completed by 7/31/2018 seconded by Ms. Bruckbauer.

Motion approved by roll vote: Mr. Hyde, Mr. Emig, Mr. Kiplinger, Mr. Wark, Ms. Bruckbauer all yes with Ms. Servis as a no.

205 Stockbridge Ave – garage only

This building is located in a CN-1 District in the Edison neighborhood. The .519 acre property contains an 800 sq. ft. detached garage built in 1945. Nearby uses are residential dwellings and commercial. There are no historic considerations for this property.

Mr. McNutt wanted to correct the dates of demolition or repair to November 27, 2017 and the completion date of demolition or repairs to December 20, 2017.

No one was present to represent this property.

Structural and exterior repairs for the building are estimated to cost approximately \$3,500. Estimated costs for demolition are approximately \$2,100. The 2017 SEV is \$47,600. According to Assessor records, the Estimated True Cash value of the land alone is approximately \$31,506 and that of the entire property \$95,034.

There were no comments from the public.
Chair Emig closed the public hearing.

FINDING OF FACT**Mr. Kiplinger moved the Finding of Fact as follows:**

1. The Finding of Fact for 205 Stockbridge Ave – garage only shall include all information included in the notice of public hearing dated October 30, 2017 and the summary information.

Mr. Hyde seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Hyde moved to approve the application, to accept the Staff Recommendations as stated, seconded by Ms. Servis.

Motion approved by roll vote unanimously.

518 Florence St

This building is located in a Residential District (Use Zone RS-5) in the Northside neighborhood. The 66'x132' (0.200 acre) property contains a 1,401sq. ft. 1 story residential building built in 1890. Nearby uses are residential dwellings and commercial. There are no historic considerations for this property.

Mr. McNutt stated that he had been in this property and it was boarded up under a new Padlock law that was enacted in the City of Kalamazoo a couple of years ago. This property was a drug house and was one of the first ones locked up under this law. The residences were evicted because of the drug issue. The garage is in bad shape and was not built to code. Mr. McNutt has tried to work with previous owners to make repairs, but there has been no repairs made. Mr. McNutt stated that he did not know if the property is meth contaminated or not.

No one was present to represent this property.

Structural and exterior repairs for the building are estimated to cost approximately \$54,000. Estimated costs for demolition are approximately \$16,000. The 2017 SEV is \$16,900. According to Assessor records, the Estimated True Cash value of the land alone is approximately \$9,249 and that of the entire property \$33,425.

There were no comments from the public.

Chair Emig closed the public hearing.

FINDING OF FACT

Ms. Bruckbauer moved the Finding of Fact as follows:

1. The Finding of Fact for 518 Florence St shall include all information included in the notice of public hearing dated 10/30/2017 and the summary information.

Mr. Wark seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Emig moved to approve the application, to accept the Staff Recommendations as stated, seconded by Mr. Wark.

Motion approved by roll vote unanimously.

520 Florence St

This building is located in a Residential District (Use Zone RS-5) in the Northside neighborhood. The 35'x132' (0.106 acre) property contains a 1,008sq. ft. 1 story residential building built in 1891. Nearby uses are residential dwellings and commercial. There are no historic considerations for this property.

Mr. McNutt stated that this property sits next door to 518 Florence St.

No one was present to represent this property.

Structural and exterior repairs for the building are estimated to cost approximately \$62,000. Estimated costs for demolition are approximately \$14,000. The 2017 SEV is \$11,400. According to Assessor records, the Estimated True Cash value of the land alone is approximately \$6,735 and that of the entire property \$22,539.

There were no comments from the public.
Chair Emig closed the public hearing.

FINDING OF FACT

Ms. Servis moved the Finding of Fact as follows:

1. The Finding of Fact for 520 Florence St shall include all information included in the notice of public hearing dated 10/30/2017 and the summary information.

Mr. Wark seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Kiplinger moved to approve the application, to accept the Staff Recommendations as stated, seconded by Mr. Wark.

Motion approved by roll vote unanimously.

ANNOUNCEMENTS

Ms. Servis spoke about 726 Hawley. Since those deadlines were not met the City will continue as needed.

ADJOURNMENT

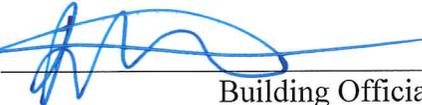
Mr. Emig moved to adjourn the meeting and was seconded by Mr. Wark.

With a unanimous vote the meeting was adjourned at 3:35p.m.

Submitted by: _____ Date _____

BBA Recording Secretary
Karleen Steppenwolf

Reviewed by: _____ Date 12/22/17


Building Official
Robert McNutt

Approved by: _____ Date _____

BBA Chair
Richard Emig

ANNOUNCEMENTS

Ms. Servis spoke about 726 Hawley. Since those deadlines were not met the City will continue as needed.

ADJOURNMENT

Mr. Emig moved to adjourn the meeting and was seconded by Mr. Wark.

With a unanimous vote the meeting was adjourned at 3:35p.m.

Submitted by: Karleen Steppenwolf Date 12/21/17
BBA Recording Secretary
Karleen Steppenwolf

Reviewed by: [Signature] Date 12/21/17
Building Official
Robert McNutt

Approved by: [Signature] Date 12/21/17
BBA Chair
Richard Emig